

AMENDED IN ASSEMBLY APRIL 4, 2011  
AMENDED IN ASSEMBLY MARCH 15, 2011  
CALIFORNIA LEGISLATURE—2011–12 REGULAR SESSION

**ASSEMBLY BILL**

**No. 379**

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**Introduced by Assembly Member Hagman**

February 14, 2011

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An act to add Article 5.5 (commencing with Section 1299) to Chapter 1 of Title 10 of Part 2 of the Penal Code, relating to bail.

LEGISLATIVE COUNSEL'S DIGEST

AB 379, as amended, Hagman. Bail Fugitive Recovery Persons Act.

Existing law regulating the issuance of bail bonds requires any person advertising or engaging in the business of executing, delivering, or furnishing bail bonds to hold a bail agent's license, a bail permittee's license, or a bail solicitor's license, as specified, issued by the Insurance Commissioner.

This bill would provide for the regulation of bail fugitive recovery persons, defined as a person given written authorization by the bail or depositor of bail and contracted to investigate, surveil, locate, and arrest a bail fugitive and any person employed to assist the bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive. This bill would require that bail fugitive recovery persons be at least ~~21~~ 18 years of age and complete one power of arrest course, as specified.

This bill would permit an authorized person to arrest a bail fugitive at any time or place and permit that person to enter into the residence of the fugitive or the residence of a third party provided that there is probable cause to believe that the fugitive is present in the residence. This bill would require that a person authorized to apprehend a bail

fugitive notify local law enforcement of his or her intent to apprehend a bail fugitive no more than 6 hours prior to attempting to apprehend a bail fugitive, except as specified. The bill would require any person authorized to apprehend a bail fugitive to carry a certification of completion of required courses and training programs, and would permit an individual authorized to apprehend a bail fugitive to wear a uniform, badge, jacket, or other clothing that displays the words “bail enforcement agent,” “bail recovery agent,” “bail fugitive recovery,” or “bail fugitive recovery person.”

Because this bill states that any person who is not in compliance with, or who violates, these provisions is guilty of a misdemeanor punishable, as specified, this bill would create a new crime, thereby imposing a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Article 5.5 (commencing with Section 1299) is  
2 added to Chapter 1 of Title 10 of Part 2 of the Penal Code, to read:

3  
4 Article 5.5. Bail Fugitive Recovery Persons Act

5  
6 1299. This article shall be known as the Bail Fugitive Recovery  
7 Persons Act.

8 1299.01. For purposes of this article, the following terms shall  
9 have the following meanings:

10 (a) “Bail” means a person licensed by the Department of  
11 Insurance pursuant to Section 1800 of the Insurance Code.

12 (b) “Bail fugitive” means a defendant in a pending criminal case  
13 who has been released from custody under a financially secured  
14 appearance, cash, or other bond and has had that bond declared  
15 forfeited, or a defendant in a pending criminal case who has  
16 violated a bond condition whereby apprehension and  
17 reincarceration are permitted.

(c) “Bail fugitive recovery person” means a person who is provided written authorization pursuant to Sections 1300 and 1301 by the bail or depositor of bail, and is contracted to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department, and any person who is employed to assist a bail or depositor of bail to investigate, surveil, locate, and arrest a bail fugitive for surrender to the appropriate court, jail, or police department.

(d) “Depositor of bail” means a person or entity who has deposited money or bonds to secure the release of a person charged with a crime or offense.

(e) “*Out-of-state bail agent*” means a person licensed in another state pursuant to the laws of that state, to arrest a bail fugitive.

1299.02. (a) No person, other than a certified law enforcement officer, shall be authorized to apprehend, detain, or arrest a bail fugitive unless that person meets one of the following conditions:

(1) Is a bail as defined in subdivision (a) of Section 1299.01 or a depositor of bail as defined in subdivision (d) of Section 1299.01.

(2) Is a bail fugitive recovery person as defined in subdivision (c) of Section 1299.01.

(3) *Is an out-of-state bail agent as defined in subdivision (e) of Section 1299.01.*

~~(3)~~

(4) Is licensed as a private investigator as provided in Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.

(b) This article shall not prohibit an arrest pursuant to Sections 837, 838, and 839.

1299.04. (a) A bail fugitive recovery person, a bail agent, bail permittee, or bail solicitor who contracts his or her services to another bail agent or surety as a bail fugitive recovery person for the purposes specified in subdivision (c) of Section 1299.01, and any bail agent, bail permittee, or bail solicitor who obtains licensing after January 1, 2000, and who engages in the arrest of a defendant pursuant to Section 1301 shall comply with the following requirements:

(1) The person shall be at least ~~21~~ 18 years of age.

(2) The person shall have completed a 40-hour power of arrest course certified by the Commission on Peace Officer Standards and Training pursuant to Section 832. Completion of the course

1 shall be for educational purposes only and not intended to confer  
2 the power of arrest of a peace officer or public officer, or agent of  
3 any federal, state, or local government, unless the person is so  
4 employed by a governmental agency.

5 (3) The person shall have completed a minimum of 12 hours of  
6 classroom education certified pursuant to Section 1810.7 of the  
7 Insurance Code.

8 (4) The person shall not have been convicted of a felony.

9 (b) Upon completion of any course or training program required  
10 by this section, an individual authorized by Section 1299.02 to  
11 apprehend a bail fugitive shall carry certificates of completion  
12 with him or her at all times in the course of performing his or her  
13 duties under this article.

14 1299.05. In performing a bail fugitive apprehension, an  
15 individual authorized by Section 1299.02 to apprehend a bail  
16 fugitive shall comply with all laws applicable to that apprehension.

17 1299.06. Before apprehending a bail fugitive, an individual  
18 authorized by Section 1299.02 to apprehend a bail fugitive shall  
19 have in his or her possession proper documentation of authority  
20 to apprehend issued by the bail or depositor of bail as prescribed  
21 in Sections 1300 and 1301. The authority to apprehend document  
22 shall include all of the following information: the name of the  
23 individual authorized by Section 1299.02 to apprehend a bail  
24 fugitive and any fictitious name, if applicable; the address of the  
25 principal office of the individual authorized by Section 1299.02  
26 to apprehend a bail fugitive; and the name and principal business  
27 address of the bail agency, surety company, or other party  
28 contracting with the individual authorized by Section 1299.02 to  
29 apprehend a bail fugitive.

30 1299.07. (a) An individual authorized by Section 1299.02 to  
31 apprehend a bail fugitive shall not represent himself or herself in  
32 any manner as being a sworn law enforcement officer.

33 (b) An individual authorized by Section 1299.02 to apprehend  
34 a bail fugitive shall not wear any uniform that represents himself  
35 or herself as belonging to any part or department of a federal, state,  
36 or local government. Any uniform shall not display the words  
37 United States, Bureau, Task Force, Federal, or other substantially  
38 similar words that a reasonable person may mistake for a  
39 government agency.

1 (c) An individual authorized by Section 1299.02 to apprehend  
2 a bail fugitive shall not wear or otherwise use a badge that  
3 represents himself or herself as belonging to any part or department  
4 of the federal, state, or local government.

5 (d) An individual authorized by Section 1299.02 to apprehend  
6 a bail fugitive shall not use a fictitious name that represents himself  
7 or herself as belonging to any federal, state, or local government.

8 (e) Notwithstanding subdivisions (a) to (d), inclusive, or any  
9 other provision of law, an individual authorized by Section 1299.02  
10 to apprehend a bail fugitive may wear a uniform, badge, jacket,  
11 or other clothing that displays the words “bail enforcement agent,”  
12 “bail recovery agent,” “bail fugitive recovery,” or “bail fugitive  
13 recovery person.”

14 1299.08. (a) Except under exigent circumstances, an individual  
15 authorized by Section 1299.02 to apprehend a bail fugitive shall,  
16 prior to and no more than six hours before attempting to apprehend  
17 the bail fugitive, notify the local police department or sheriff’s  
18 department of the intent to apprehend a bail fugitive in that  
19 jurisdiction by doing all of the following:

20 (1) Indicating the name of an individual authorized by Section  
21 1299.02 to apprehend a bail fugitive entering the jurisdiction.

22 (2) Stating the approximate time an individual authorized by  
23 Section 1299.02 to apprehend a bail fugitive will be entering the  
24 jurisdiction and the approximate length of the stay.

25 (3) Stating the name and approximate location of the bail  
26 fugitive.

27 (b) If an exigent circumstance does arise and prior notification  
28 is not given as provided in subdivision (a), an individual authorized  
29 by Section 1299.02 to apprehend a bail fugitive shall notify the  
30 local police department or sheriff’s department immediately after  
31 the apprehension, and upon request of the local jurisdiction, shall  
32 submit a detailed explanation of those exigent circumstances within  
33 three working days after the apprehension is made.

34 (c) This section shall not preclude an individual authorized by  
35 Section 1299.02 to apprehend a bail fugitive from making or  
36 attempting to make a lawful arrest of a bail fugitive on bond  
37 pursuant to Section 1300 or 1301. The fact that a bench warrant  
38 is not located or entered into a warrant depository or system shall  
39 not affect a lawful arrest of the bail fugitive.

(d) For the purposes of this section, notice may be provided to a local law enforcement agency by telephone prior to the arrest or, after the arrest has taken place, if exigent circumstances exist. In that case the name or operator number of the employee receiving the notice information shall be obtained and retained by the bail, depositor of bail, or bail fugitive recovery person.

1299.09. An individual authorized by Section 1299.02 to apprehend a bail fugitive may arrest that fugitive at any time or place and may enter into the residence of the fugitive or the residence of a third party provided that there is probable cause to believe that the fugitive is present in the residence.

1299.10. An individual authorized by Section 1299.02 to apprehend a bail fugitive shall not carry a firearm or other weapon unless in compliance with the laws of the state.

1299.11. Any person who violates this act, or who conspires with another person to violate this act, or who hires an individual to apprehend a bail fugitive, knowing that the individual is not authorized by Section 1299.02 to apprehend a bail fugitive, is guilty of a misdemeanor punishable by a fine of five thousand dollars (\$5,000) or by imprisonment in the county jail not to exceed one year, or by both that imprisonment and fine.

1299.12. Nothing in this article is intended to exempt from licensure persons otherwise required to be licensed as private investigators pursuant to Chapter 11.3 (commencing with Section 7512) of Division 3 of the Business and Professions Code.

SEC. 2. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.